

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILLIAM JAMES WALLACE, II,
Plaintiff,
v.
J. WHITE, et al.,
Defendants.

Case No. 1:20-cv-00844-NONE-EPG (PC)

ORDER FOR PLAINTIFF TO SHOW CAUSE
WHY HIS CLAIMS AGAINST JOHN/JANE
DOES 1-10 SHOULD NOT BE DISMISSED
WITHOUT PREJUDICE

RESPONSE DUE WITHIN FORTY-FIVE (45)
DAYS

Plaintiff William James Wallace, II ("Plaintiff") is a former state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. For the reasons that follow, the Court will order Plaintiff to show cause why his claim against Defendant John Doe should not be dismissed without prejudice.

This case proceeds on Plaintiff's Eighth Amendment claim for unconstitutional conditions of confinement against Defendants Lopez, Wade, White and John Doe. (ECF Nos. 18, 19.) On March 11, 2021, the Court entered an order authorizing service of the summons and complaint on Defendants Lopez, Wade, and White. This order advised Plaintiff that Doe defendants cannot be served until Plaintiff has identified them and amended his complaint to substitute named defendants in place of the Doe defendants. (*Id.* at 2.) Plaintiff was also advised that he would be required to identify Doe defendants as the litigation proceeds. (*Id.*)

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1 On July 9, 2021, the Court entered an order permitting Plaintiff to subpoena documents
2 from the Wasco State Prison that may allow him to identify Defendant John Doe. (ECF No. 38.)
3 The Court further set a deadline of 120 days from the date of service of the order for Plaintiff to
4 file a motion to substitute a named individual in place of the Doe defendant. (*Id.*) Plaintiff was
5 served with the Court's order by mail on July 9, 2021.

6 On July 26, 2021, after Plaintiff submitted a proposed subpoena seeking information that
7 was not relevant to identifying Defendant John Doe, the Court entered a second order allowing
8 Plaintiff additional time to subpoena documents and extending the deadline for Plaintiff to submit
9 a motion to substitute. (ECF No. 40.) Plaintiff was directed to return a form AO 88B and form
10 USM-285 within thirty days. (*Id.* at 3.) Additionally, Plaintiff was provided 120 days from the
11 date of service of the Court's order to file a motion to substitute a named defendant in place of
12 Defendant John Doe. (*Id.*) Plaintiff was warned that failure to comply with the order may result in
13 dismissal of Defendant John Doe. (*Id.*) Plaintiff was served with the Court's order by mail on July
14 26, 2021.

15 To date, Plaintiff has not filed a motion to amend his complaint or otherwise identified the
16 Doe defendants and the deadline for Plaintiff to file a motion to substitute has expired.
17 Accordingly, the Court will order Plaintiff to show cause in writing why Defendant John Doe
18 should not be dismissed from this action without prejudice.

19 Accordingly, IT IS HEREBY ORDERED that, within forty-five (45) days from the date
20 of service of this order, Plaintiff shall respond in writing and show cause why Defendant John
21 Doe should not be dismissed from this action. Failure to respond to this order will result in a
22 recommendation that Defendant John Doe be dismissed without prejudice.

23 IT IS SO ORDERED.

24 Dated: December 13, 2021

25 /s/ Eric P. Gray
26 UNITED STATES MAGISTRATE JUDGE
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